HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(S) No.4385 of 2007

PETITIONER		Ashok Kumar Banjare, aged 35 years, S/o Shri Deen Dayal Banjare, R/o Village Hardi, P.C. No. 38, Tahsil Berla, Distt. Durg (C.G.)
		Versus
RESPONDENTS	1.	State of Chhattisgarh, Through - Secretary, Revenue Department, D.K.S. Bhawan, Raipur (C.G.)
	2.	Collector, Durg (C.G.)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Appearance:

Shri Ajay Shrivastava, counsel for the petitioner.

Shri Yashwant Singh, Govt. Advocate for the State on advance copy

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ORAL ORDER
(01.08.2007)

SUNIL KUMAR SINHA, J.

Heard.

The petitioner, who is working on the post of Patwari, has challenged his order of transfer dated 7.7.2007 (Annexure-P/1), by which, he has been transferred from P.C. No.38 Berla, District Durg to P.C. No. 23, Nawagarh, District Durg on administrative grounds.

Learned counsel for the petitioner submits that the aforesaid transfer is against the transfer policy, as the petitioner has been transferred prior to completion of his 3 years period at the present place of posting. He submits that he is working at Berla since last 15 months, therefore, this transfer is a clear violation of transfer policy dated 13th June, 2007 framed by the State.

In the matter of ***Union of India Vs. S.L. Abbas, AIR 1993 SC 2444***, it has been held by the Apex Court that the guidelines issued by the Government about the transfer of Government employee do not confer upon the Government

employee a legally enforceable right. It has also been held vide para 7 of the aforesaid judgment that who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by malafides or is made in violation of any statutory provisions, the Court cannot interfere with it. However, it has been further held that while ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject.

Further in the matter of ***State of U.P. and others vs. Gobardhan Lal, 2004 AIR SCW 2082***, it has been observed by the Apex Court that even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. The Apex Court has further observed that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.

Having gone through the contents of the writ petition and after hearing the counsel for the petitioner, I do not find any ground of malafides or extraneous consideration or a ground of violation of any statutory Rules or Act in the matter of transfer of the petitioner warranting interference by this Court under Article 226 of the Constitution of India.

This petition filed on the ground of violation of the policy only cannot be entertained. The same is liable to be dismissed and is dismissed at the motion stage itself.

Sd/-
Sunil Kumar Sinha
Judge

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